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United Tribes of Michigan

5453 Hughston Rd, Harbor Springs, Michigan 49740
Phone: 517-802-8650 Email: fettawa@charter.net Fax: 231-242-0958

Frank Ettawageshik, Executive Director

RESOLUTION # 020 08-23-2012

United Tribes of Michigan support for Enactment of Michigan Indian Family Preservation Act by the Michigan Legislature

WHEREAS, the membership of United Tribes of Michigan (UTM) is open to all of the twelve federally recognized tribes located in Michigan; and

WHEREAS, the organization provides a forum for the Tribes in Michigan to address issues of common concern and is committed to join forces to advance, protect, preserve and enhance the mutual interests, treaty rights, sovereignty, and cultural way of life of the sovereign Indian Tribes of Michigan throughout the next seven generations; and

WHEREAS, UTM accepts the mission to engage, as a matter of mutual concern, issues that impact the health, security, safety, and general welfare of Native Americans; and

WHEREAS, UTM recognizes that there is no resource more vital to continued existence, vitality and integrity of our Indian Nations than our children; and

WHEREAS, UTM recognizes that there has been continuing inconsistency in the application of the Indian Child Welfare Act of 1978 (ICWA) by officials within the State of Michigan and that additional clarification and reinforcement of ICWA's policies may be enacted into state law; and

WHEREAS, a broad coalition of stakeholders interested in the welfare of Indian children and promotion of ICWA have developed language for a Michigan Indian Family Preservation Act (MIFPA) to clarify and heighten awareness of ICWA in the State of Michigan; and

WHEREAS, Senator Judy K. Emmons, representing Michigan's 33rd Senate District, has introduced SB 1232, titled the "Michigan Indian Family Preservation Act", which substantially conforms to the language of the MIFPA draft prepared by the coalition of stakeholders interested in the welfare of Indian children; and

WHEREAS, Senator Emmons has requested statements of support for SB 1232 from the UTM, individual Indian Nations and other stakeholders; and

WHEREAS, UTM believes that passage of SB 1232 (hereafter "MIFPA"), as introduced by Senator Emmons, into state law will increase compliance with ICWA within the State and will better protect Indian Nations' interest in promoting the health and welfare of our children; and

WHEREAS, UTM supports SB 1232 as introduced by Senator Emmons but is

respectfully requesting certain technical amendments as described in the attached document, which representatives of UTM believe will further clarify MIFPA and accomplish the purposes of improving compliance with ICWA by Michigan Courts and the Department of Human Services.

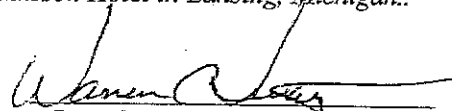
THEREFORE, BE IT RESOLVED, that the United Tribes of Michigan declares its official support for the introduction and passage of SB 1232, known as the Michigan Indian Family Preservation Act, by the Michigan Legislature and approval by the Governor.

BE IT FURTHER RESOLVED, that the United Tribes of Michigan requests that representatives of the Senate Families, Seniors and Human Services Committee make the technical revisions described in the attachment hereto, and that such amendments be included in any final Bill considered for adoption by the Michigan Legislature.

BE IT FINALLY RESOLVED, that the United Tribes of Michigan requests that the Michigan Senate and House take prompt action intended to secure passage of SB 1232, amended as set forth herein, when the Legislature returns to session in September 2012.

Adopted by a vote of 9 in favor, 0 against, 0 abstaining at a meeting of the United Tribes of Michigan held on September 23, 2012, at the Radisson Hotel in Lansing, Michigan..


Ogema Larry Romanelli
UTM President


President Warren Chris Swartz
UTM Secretary

Requested amendments to SB 1232 as approved by MIFPA Taskforce members and supported by the United Tribes of Michigan:

1. Section 3.(B)(i)(A) - Page 4, line 11: Replace the reference to "Foster Care" with "Foster home or institution".
JUSTIFICATION: ICWA uses the phrase "foster home or institution". The change will ensure that MIFPA is consistent with ICWA and avoid confusion that somehow placement in an institution is not an out-of-home placement triggering MIFPA/ICWA procedures.
2. Section 11 - page 14, line 5: Replace "may" with "shall have a right to".
JUSTIFICATION: Want to make sure this provision is not construed as giving the court discretion to determine if a particular party is entitled to obtain reports and other documents. Clarifies that this is a legal right.
3. Section 15(2) - page 19, line 5: Add the word "qualified" between "1" and "expert", so this read "at least 1 qualified expert witness".
JUSTIFICATION: This addition will ensure that reference to an "expert witness" clearly refers to the criteria prescribed for determining when an expert witness is "qualified" under the standards set forth in Section 17 of SB 1232.
4. Section 15(2) - page 19, line 12: Delete the words "a showing".
JUSTIFICATION: Adding the words "a showing" potentially creates confusion as to the appropriate standard of proof required to support removal of an Indian child. The words "a showing" are not found in MCR 3.967 and adding that phrase to the legislation creates an unnecessary ambiguity and/or conflict with the Court Rule.
5. Section 15(4) - page 19, line 24, add the phrase "at least 1" before "qualified expert witness" and add the phrase "who has knowledge about the child-rearing practices of the Indian child's tribe" after "expert witness. This would then read "at least 1 qualified witness who has knowledge about the child-rearing practices of the Indian child's tribe".
JUSTIFICATION: This would ensure that the requirements for expert witness testimony supporting a termination of parental rights was no less stringent than those needed to remove an Indian child from his/her home under Section 15(2). This change is very important to the Bay Mills Indian Community.
6. Section 17(1)(C) - page 20, line 19: Add the phrase "within the Indian child's tribe" after the word "customs". This phrase would now read: "and how the Tribal customs within the Indian child's tribe pertain to family organization and child rearing practices."
JUSTIFICATION: This would ensure that expert witness testimony would require testimony from at least 1 expert witness who has at least general knowledge about the Tribal customs specifically applying to the Indian child's tribe vs. someone claiming general knowledge about Indian customs that may have no relevance to the Indian child's tribe.
7. Section 39 - page 29, line 27: Add a reference to Section "7" before the reference to Section 9.
JUSTIFICATION: We believe the omission of a cross-reference to Section 7 was an oversight. This will ensure that there is a right to petition to invalidate proceedings in which a Michigan Court exercises jurisdiction over and Indian child who is subject to the exclusive jurisdiction of a Tribal Court.